IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P. No. 2281 of 1989
Date of Decision:07.03.2007

Ganga Ram through his LRs

.....Petitioners

Vs.

The Municipality Bathinda, Bathinda and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- None for the petitioners.

Mr. I.P.S.Doabia, Advocate for respondent No.1.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order of assessment of house-tax for the year 1986-87, which according to the petitioner has been increased exhorbitantly by enhancing the annual rental value from Rs. 3,400/- to Rs. 10,000/-

In appeal against the order of assessment, the petitioner failed before the appellate authority who rejected the appeal vide order dated 8.2.1988.

No one has appeared on behalf of the petitioners.

I have heard learned counsel for respondent No.1.

A perusal of order of assessment, framed by the House Tax Sub Committee of Municipal Committee, Bathinda in its meeting held on January 10, 1987, shows that initially the increase in the assessment on annual rental value was proposed from Rs. 3,400/- to Rs. 40,000/- but was reduced to Rs. 10,000/- per annum but no basis thereof was given in the year of assessment. Admittedly, annual rental value assessed prior thereto was Rs. 3,400/-. In appeal, the Commissioner, Ferozepur Division, Ferozepur (for short, `the Commissioner') though has upheld the order of assessment but there is no basis to justify the increase of the annual rental value to around three times of the earlier assessment. If the authorities were to increase the annual rental value to nearly three times of the earlier

assessment, some material was required to be placed on record. As was claimed by the counsel appearing for respondent No.1 before the Commissioner, the assessment in the case of the petitioner was sought to be made as originally it was under assessed by inadvertence. There is no cause to justify that in what manner the annual rental value was earlier under assessed. The order shows that the annual rental value is reduced from proposed Rs. 40,000/- to Rs.10,000/- and in that manner, the petitioner had been granted substantial relief, which was not considered from the other side, namely: annual rental value was increased from Rs. 3,400/- to Rs. 10,000/- without placing on record any basis therefor. It is not in dispute that in appeal before the Commissioner the onus was on the assessee-petitioner to plead that how the assessment framed was without any basis as is held in **Municipal Corporation of Greater Mumbai and another v. Kamla Mills Ltd.,** AIR 2003 SC 2998. However, it is found that even the House Tax Sub Committee of Municipal Committee, Bathinda had not referred to or relied upon on any material for increasing the annual rental value from Rs. 3,400/- to Rs. 10,000/-.

Keeping in view the totality of circumstances, in my opinion, the ends of justice would be met in the present case, in case the order of assessment Annexure P.1 and the appellate order Annexure P.3 are set aside and the matter is remitted back to the Municipal Committee for fresh consideration after affording an opportunity of hearing to the petitioner.

Let the needful be done within a period of three months from the date of receipt of a copy of this order.

The writ petition is disposed of in the manner indicated above.

March 07, 2007 **(RAJESH BINDAL)**
renu **JUDGE**